

DOCKET FILE COPY DUPLICATE

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b))	MB Docket No. 03-56
Table of Allotments,)	RM-10662
FM Broadcast Stations.)	RM-10775
(Victoria, George West, and)	
Three Rivers, Texas))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: December 14, 2005

Released: December 16, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making*¹ issued at the request of Victoria RadioWorks, Ltd. ("Petitioner"), licensee of Station KEPG(FM), Channel 265A, Victoria, Texas, requesting the substitution of Channel 265C3 for Channel 265A at Victoria, and the modification of Station KEPG's license accordingly. To accommodate Station KEPG's upgrade, Petitioner requested the deletion of vacant Channel 265A at George West, Texas. Petitioner filed comments, stating its continuing interest in pursuing the allotment, and its intention to apply for a construction permit. A counterproposal was filed by M.C. Vargas ("Vargas") proposing to allot Channel 265A at Three Rivers, Texas² but Vargas subsequently filed a "Withdrawal of Counterproposal."

2. We dismiss Vargas's counterproposal pursuant to his withdrawal request. It is the Commission's policy to refrain from making an allotment to a community absent an adequate expression of interest. Vargas's withdrawal request complies with Section 1.420(j) of the Commission's rules.³

3. We grant Petitioner's request to substitute Channel 265C3 for Channel 265A at Victoria. We believe that the channel upgrade will serve the public interest because it will enable Station KEPG, to expand its coverage area of Victoria, Texas. Channel 265C3 can be allotted to Victoria, Texas in compliance with the minimum distance separation requirements of the Commission's rules at reference coordinates located 28-46-40 NL and 97-04-10 WL with a site restriction of 7.1 kilometers (4.4 miles) southwest of the community. We have received Mexican concurrence for this allotment. In addition, we delete vacant Channel 265A at George West, Texas from the FM Table of Allotments to accommodate the upgrade at Victoria.⁴

¹ *Victoria and George West, Texas*, 18 FCC Rcd 4452 (MB 2003).

² The counterproposal was placed on Public Notice on August 26, 2003, Report No. 2624, (10775).

³ 47 C.F.R. § 1.420(j).

⁴ The construction permit (BPH-19940207MA) for the allotment at George West expired on December 21, 2000.

4. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. Section 801(a)(1)(A).

5. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective January 30, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED for the communities listed below, as follows:

<u>Community</u>	<u>Channel No.</u>
George West, Texas	228C3, 250A, 292A
Victoria, Texas	222A, 236C1, 254C1, 265C3, 300C1

6. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Station KEPG(FM), Channel 265A, Victoria, Texas, IS MODIFIED to specify operation on Channel 265C3, subject to the following conditions:

- (a) within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit on Form 301, specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

7. Pursuant to 47 C.F.R. Section 1.1104(3)(l), Victoria RadioWorks, Ltd., licensee of Station KEPG(FM), is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the upgrade for Station KEPG(FM) at the time its Form 301 application is submitted.

8. IT IS FURTHER ORDER, That the Secretary shall send a copy of this Report and Order by Certified mail, Return Receipt Requested, to the following:

Victoria RadioWorks, Ltd.
c/o Harry C. Martin, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street
11th Floor
Arlington, Virginia 22209

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.
10. For further information contact Helen McLean, Media Bureau, (202) 418-2738.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau